

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

MARY CATHERINE SCHIRF,

Plaintiff,

v.

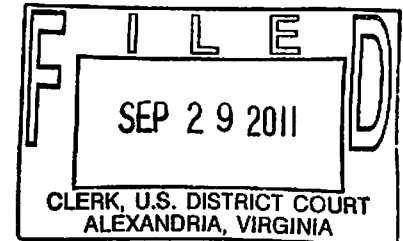
ALEXANDRIA COUNTRY DAY SCHOOL,

and

ALEXANDER HARVEY, IV,

Defendants.

Civil Action No. 1:11cv320



MEMORANDUM OPINION

THIS MATTER comes before the Court for consideration of attorneys fees and costs pursuant to this Court's order of and pursuant to Federal Rules of Civil Procedure 37.

The Court must evaluate a claim for attorney fees pursuant to the "Johnson Factors" as reiterated in Robinson v. Equifax Info. Servs., LLC, 560 F.3d 235, 243-44 (4<sup>th</sup> Cir. 2009). Since this matter involved a discovery motion rather than a complete disposition of a case after trial, many of the factors, notably, "(4) (the attorney's opportunity costs in pressing the instant litigation), (6) (the attorney's expectation at the outset of the litigation), (7) (the time limitations imposed by the client or circumstances), (8) (the amount in controversy and the results obtained), (10) (the undesirability of the case within the legal community in which the suit arose), and (11) (the nature and length of the professional relationship between attorney and client)" are not particularly applicable.

As to the remaining factors, the Court finds as follows:

1. The Time and Labor Expended

Defendant's counsel submitted a statement for fees and costs of \$9690.00, which includes fees incurred in preparation for the Plaintiff's deposition. However, that preparation time should

have applied to the deposition which was ultimately taken and thus should not be a part of this award.

Upon review of the time statements submitted by counsel, the Court finds that Defendant's counsels' time on the day of Plaintiff's failed deposition plus the time to prepare and attend the motion to compel were necessary and appropriate. Therefore the Court finds that Mr. Dodge's time from August 16, 2011 through August 26, 2011, with the exception of 2.8 hours spent in deposition preparations on August 16, 2011, and Ms. Harper's time from August 16, 2011 through August 17, 2011 should be awarded. In addition, the transcript fee of \$275.00 was necessary and appropriate.

2. Novelty and Difficulty of the Questions Raised and 3. Skill Required to Properly Perform the Legal Services Rendered

The Court finds that those factors are not significant enough to alter the requested reward because the issues were not unique and were of average difficulty.

5. The Customary Fee for Like Work

The Court further finds that it is appropriate to consider the declaration submitted by Rhonda Brown Esaw, who was not counsel of record in this case, to determine the customary fee for like work in Northern Virginia. Based on the qualifications and experience of Mr. Dodge, Ms. Harper and the evidence presented by Defendant, the Court finds that the rate of \$250 per hour for Mr. Dodge and \$200 per hour for Ms. Harper are a reasonable and customary fee in Northern Virginia. Further, Plaintiff does not oppose Defendant's counsel's hourly rate.

9. The Experience, Reputation and Ability of the Attorney


The Court finds that Mr. Dodge and Ms. Harper's experience, ability and reputation support the hours claimed as well as the hourly rates set forth above.

12. Attorney's Fees Awards in Similar Cases

Mr. Dodge's 9.1 hours and hourly rate of \$250 and Ms. Harper's 1.0 hour and hourly rate of \$200, for a total fee award of \$2475.50 is more than reasonable for bringing a motion to compel and appearing for hearing, as supported by the declarations as well as the Court's experience. Additionally, the Court finds that the amount of \$275.00 for the costs incurred is reasonable and necessary.

The Court therefore finds that Plaintiff, Mary Catherine Schirf shall pay to Defendants, Alexandria Country Day School and Alexander Harvey IV the sum of \$2475.00 payable to Defendants' counsel within 14 days from the date of the accompanying order.

ENTERED this 29<sup>th</sup> day of September, 2011.

/s/  
 Theresa Carroll Buchanan  
United States Magistrate Judge

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THERESA CARROLL BUCHANAN  
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia